

**Completing CAO 13-5 Complaint for Paternity, Custody, Visitation or Support
2/25/2005**

[REMOVE THESE INSTRUCTION PAGES BEFORE FILING]

Talk to an attorney, if possible.

WARNING: When you represent yourself in a court case you are held to the same standard as an attorney. This applies to your preparation of paperwork and your conduct at all hearings and/or trial. Your lack of legal knowledge may cause you to make serious errors in handling your case. These instructions are not a substitute for legal advice. The laws and court rules are complex and following these instructions will not guarantee that your rights are protected or that you will be satisfied with the result. You should always talk to a lawyer about your legal problems before filing any legal paperwork. Even if you do not hire a lawyer to appear in your case, you may be able to find a lawyer to review your paperwork or give you more information about your rights. Call the Idaho State Bar (208-334-4500) to provide you with the name of an attorney who handles this type of case. Contact the Court Assistance Office for information about resources for low-income people.

YOU WILL BE SIGNING A SWORN STATEMENT THAT YOU HAVE READ THE COMPLAINT, KNOW WHAT IT SAYS, AND BELIEVE IT'S TRUE. TO GUARANTEE THE TRUTHFULNESS OF THAT STATEMENT, BE SURE TO READ THE ENTIRE COMPLETED FORM.

Instructions

Fill in the forms by typing or by printing neatly and legibly in black ink. If you are working on a computer, you may delete the optional sections you don't need and renumber the remaining sections, or type in "none" if a section doesn't apply. The documents have a boldface "or" at the start of optional sections. If the section does not contain a boldface "or" it is necessary and you should type in the appropriate information (which might be the word "none"). Always keep a copy of the completed form for your records.

At the top left-hand corner of page 1, fill in your full legal name, mailing address and telephone number.

The Court Heading. Fill in the county and judicial district in capital letters (for example, "IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT, IN AND FOR THE COUNTY OF KOOTENAI").

The Caption. Fill in your full legal name on the line above Plaintiff and the other parent's full legal name on the line above Defendant.

The Case No. The case number will be assigned by court personnel when you file the Complaint. You should write in the case number on all other documents.

The Court Heading, Caption and Case Number will be the same on all other documents you prepare for this case.

The Name of the Document. Check the boxes to indicate the orders you want.

1. Minor Child/ren of the Parties.

- Fill in the name and date of birth for each minor child and the city and state where each child has lived for the last five years. *WARNING: If any of your children have not resided in Idaho for at least six uninterrupted months before the filing of the Complaint (or for their entire lives if they are less than six months of age), the Idaho court may lack authority (“jurisdiction”) to determine custody of that child. In that event you should consult an attorney to determine if there may be other grounds for jurisdiction and venue under Idaho’s laws.*
- Check the first box if paternity has NOT been established. **or**
- Check the second box if an Order of Filiation (a court order stating the name of the father) has been signed by a judge in some other court case (this may be a Child Support Order filed by the Department of Health & Welfare).
 - Fill in the state, county and case number of that order and fill in the name of the father.
 - Make a copy of that order, mark the copy as **Exhibit C** at the bottom of the first page of the order and staple it to your Complaint. **or**
 - Check the third box if both parents have signed a verified Voluntary Acknowledgement of Paternity for the child/ren. A Voluntary Acknowledgement of Paternity cannot be rescinded after the Complaint is filed.
 - Make a copy of the Voluntary Acknowledgement for each child.
 - Mark the copy as **Exhibit C** at the bottom of the first page of the Acknowledgment and staple it to your Complaint.

2. The Parties. Fill in the city, county and state where each parent lives and check the box to indicate if you, the Plaintiff, are the mother or father and if the Defendant is the mother or father.

3. Jurisdiction to Establish Paternity. If you did not check either the second or third box in Section 2, you need to obtain a court order to establish the paternity (father) of your child/ren.

- Check the box(es) that apply to your situation. *WARNING: If none of the statements apply to your situation, the Idaho court may lack authority (“jurisdiction”) to determine paternity of the child/ren. In that event you should talk to an attorney to determine if there may be other grounds for jurisdiction and venue under Idaho’s laws. The court cannot order custody or support for the child/ren until paternity has been established.*

4. Venue. This is your statement that this county is the correct place to file the Complaint.

5. Jurisdiction. This is your statement that each child has resided in Idaho for at least the past 6 uninterrupted months. Additionally, you are required to inform the court if there have been any other cases involving your child/ren in any court or if there are any other people claiming custody or visitation rights with the child/ren.

In paragraphs 5a, b, c and d, select the appropriate check box and provide all requested

information.

6. Paternity. If you want the court to enter a paternity order, check the box and fill in the father's name.

7. Legal Custody. "Joint legal custody" means each parent has decision-making rights, responsibilities and authority relating to the health, education and general welfare of the child/ren. The court will order joint legal custody unless you can prove it would not be in the best interest of the minor child/ren for the other parent to have decision-making rights.

- Check the first box if both parents are fit persons to have decision-making rights, responsibilities and authority relating to the health, education and general welfare of the child/ren. **or**
- Check the second box if you are declaring that one parent should have sole legal custody of the child/ren, and
 - Write in the name of the parent who should be given sole legal custody and
 - State why the other parent should NOT be allowed to share legal custody.

8. Physical Custody. "Joint physical custody" means each parent has frequent and continuing contact with the child/ren. With joint physical custody each parent has significant periods of time in which a child resides with or is under his/her care and supervision. The parenting time is not necessarily 50/50, and the child/ren does not necessarily alternate back and forth between the parents. "The court will award joint physical custody unless you can prove it would not be in the best interest of the minor child/ren to spend time with each parent on a regular basis.

- Check the first box if both parents should be given physical custody of the child/ren and
 - Complete the Parenting Plan (both parents may sign the Parenting Plan, but it is not required). Write "Exhibit A" on the bottom of the first page of the Parenting Plan and attach it to the Complaint. **IMPORTANT:** The Parenting Plan must be attached to make it a part of the Complaint. Make an extra copy of the Parenting Plan to attach to the Custody Order. **or**
- Check the second box if you are asking the court to give sole physical custody of the child/ren to only one parent, **and**
 - Write in the name of the parent who should be given sole physical custody **and**
 - State why the other parent should NOT be given periods of time when the child resides with or is under his/her care and supervision.
 - If you want the court's order to give the other parent restricted or conditional time with the child/ren, write in the parent's name **and**
 - State specifically what you want the court to order.

9. Child Support.

If there is already an order signed by a judge, for example in a case filed by the Department of Health & Welfare, check the first box, make a copy of that Order, mark it as **Exhibit B** and attach it to this Complaint.

If there is already a Child Support Order and a change in circumstances will cause the child support amount to be changed, also check the box to select the next paragraph, and check all boxes describing what has changed since the last order.

and/or

If there is NOT a Child Support Order, or the current child support amount needs to be changed, check the next box.

You will first need to complete an Affidavit Verifying Income and a Child Support Worksheet. A Court Assistance Officer will be able to help you generate these documents if you provide the required information. The Child Support Worksheet will be used to complete this section.

- Write in the name of the parent who will pay child support and the total monthly amount (the base amount of support plus or minus any adjustments). Adjustments may include a pro rata sharing of work-related childcare, medical, dental, and/or optical insurance premiums, and/or tax benefits. **Note:** *Section 8 of the Idaho Child Support Guidelines addresses these adjustments.*
 - Fill in the Base Amount of child support.
 - Check the appropriate boxes and fill in the amount of any adjustments.
- If you have more than one minor child, check the box. You will need to have a separate calculation to reflect the changed amount of support as each child is no longer eligible for support under Idaho law. Fill in the total amount of child support, as calculated according to the Idaho Child Support Guidelines.
- Attach your Affidavit Verifying Income and Support Worksheet(s) to the Complaint, marking each as **Exhibit B**.

Extended Visits. If the child/ren lives in the home of one parent at least 75% of the time, you can adopt either or both of the next two paragraphs of the form. If the child/ren spends more than 25% of the overnights in a year with each parent (shared physical custody), ignore the next two paragraphs of the form. NOTE: Section 10(e) of the Idaho Child Support Guidelines, Rule 6(c)(6) of the Idaho Rules of Civil Procedure, describe “Shared Physical Custody” and computation of child support with that parenting arrangement. You can get a copy of the Child Support Guidelines from a Court Assistance Office or the Internet at <http://www2.state.id.us/judicial/rules/ircp6c6.rul>. If you selected the first paragraph, indicate how much the support payment will be reduced by either checking the box for 50% or filing in your own percentage.

WARNING: If you are the parent paying child support (the “obligor”) you should be aware the Order will provide for collection of child support from your wages and from your real estate or personal property. The Order will also provide that if you move to another state, the child support can be enforced directly by courts in other states. Additionally, you should be aware that, according to Idaho law, if unpaid child support equals or exceeds the total support owing for ninety (90) days or the sum of \$2,000, whichever is less, you are subject to suspension of any license to practice or engage in any business, occupation or profession, operate a motor vehicle, carry a concealed weapon, or engage in any recreational activity, including hunting or fishing. Further, the State Tax Commission will withhold and set-off any state tax refund to collect any unpaid child support, or unpaid spousal support, and the Idaho State Lottery will likewise withhold and set-off a prize of a lottery prize-winner.

10. Medical Insurance. Check the first box if there is no change and complete the blanks. If there is change, check the second, third or fourth box to indicate how health insurance coverage

for the child/ren is now being provided. If you selected the second paragraph, write in the name of the parent(s) currently providing health insurance. In the fifth paragraph, if health insurance premiums are NOT included in the calculation of child support, check the box and write in the percentage to be paid by each parent, based on each of your Guidelines income percentage. (These percentages are determined when calculating the child support. Refer to the Child Support Worksheet).

11. Health Care Costs Not Paid by Insurance. Check the first box if there is no change and complete the blanks. If there is change, check the second box and write in the percentage to be paid by each parent. Idaho's Child Support Guidelines presume a sharing in proportion to your Guidelines income.

12. Work-related Child Care Costs. Check the first box if there is no change and complete the blanks. If there is change, check the second box and

- Fill in the percentages each parent will pay.
- Check the box if both parents will pay the care provider directly.

13. Income Tax Exemption. Check the first box if there is no change. If there is change, check the second box and write in the blank the name of the parent who will claim each child as a dependent on their income tax return(s). Note: The child support calculation must reflect the same designation.

14. Name Change. If you want to change the legal last name of the child/ren, mark the box and write in the last name as it should be. (Accurate spelling is very important.)

15. Amend Birth Certificate. If your child/ren's birth certificate(s) do/does not include the name of the father, the Bureau of Vital Statistics in the state where your child/ren was/were born will add the father's name to the birth certificate(s).

Date and Signature: Leave the spaces for the State and County blank. Go to an office where there's a Notary. Have the notary fill in the spaces. Sign the Complaint in front of the Notary and have your signature notarized.

Exhibits (attachments):

- Complete the Parenting Plan. Mark it as **Exhibit A**.
- **Exhibit B** will be either a copy of the Child Support Order already in effect **or** the Affidavit Verifying Income and Child Support Worksheet(s).
- If paternity has already been established, **Exhibit C** will be either a copy of the Order of Filiation entered in another court case (if this is the same order as the Child Support Order – **Exhibit B** – just mark it as **Exhibit B and C**, you don't need to attach two copies) **or** a copy of the Voluntary Acknowledgement(s) of Paternity.

The Order you will be preparing will have the same Parenting Plan, Child Support Order and Order of Filiation. Make an extra copy of these Exhibits so you will have them to attach to the Order.

The exhibits must be stapled to the Complaint (and all copies you are required to make).

Make two more copies of the Complaint with Exhibits attached, one copy for each party.
(Continue to read the general Instructions on Filing for Custody to file and serve your Complaint.)

Full Name of Party Filing This Document

Mailing Address (Street or Post Office Box)

City, State and Zip Code

Telephone Number

IN THE DISTRICT COURT OF THE _____ JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF _____

_____,
Plaintiff,
vs.
_____,
Defendant.

Case No. _____

COMPLAINT FOR [] PATERNITY
[] CUSTODY, VISITATION
[] SUPPORT

Fee Category: _____
Filing Fee \$ _____

The Plaintiff says:

1. Minor Children of the Parties. The following child/ren under the age of 18 years, or 19 years and still pursuing a high school education, was/were born to or adopted by the parties:

<u>Name</u>	<u>Date of Birth</u>	<u>Addresses for last five years</u> (city & state) (Beginning with most recent)
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_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

[] Paternity has not been established. **or**

[] An Order of Filiation was entered in the State of _____, County of _____, in Case No. _____, establishing that _____ is the natural father of the child/ren. A copy of the

Order is attached to this Complaint as **Exhibit C. or**

[] A verified Voluntary Acknowledgement of Paternity for the child/ren, executed by both parents, was filed with the Vital Statistics Unit of the Department of Health and Welfare and has not been rescinded. A copy of the Voluntary Acknowledgment of Paternity for each child is attached as "Exhibit C".

2. The Parties. Plaintiff is the [] mother [] father and resides at (city, county, state) _____. Defendant is the [] mother [] father and resides at (city, county, state) _____. The parties are not now married and have not been married to each other.

3. Jurisdiction to Establish Paternity, Order Support and Determine Custody. This court has jurisdiction to establish paternity, order support and determine custody in this matter pursuant to Idaho Code Section 7-1102 because:

[] The father resides in Idaho. **or**
[] The father resided with the parties' child/ren in Idaho. **or**
[] The parties' child/ren reside/s in Idaho as a result of the acts or directives of the father. **or**
[] Although the father resides outside of the State of Idaho, the parties' child/ren was/were conceived in Idaho.

4. Venue. Venue is proper because this county is either where the child/ren was/were conceived or born or reside/s or the county where the mother or father resides.

5. UCCJEA Jurisdiction. This court has jurisdiction to determine custody of our child/ren pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act, Idaho Code § 32-11-101, et seq., because each child has resided in Idaho for at least six consecutive months before the filing of this Complaint or for their entire life if they are less than six months of age.

a. [] I have not participated as a party or witness, in any other case involving our child/ren. **or**

[] I have participated as a party or witness in the following case involving our children (provide all specifics including the parent's name, the state, the court, the case number and the date of the child custody order, if any): _____.

b. [] I do not know of any other case that could affect our child/ren. **or**

[] I know of the following court case that could affect our child/ren (provide all specifics including the parent's name, the state, the court, the case number and the nature of the proceeding): _____

_____.

c. [] Other than the parents, no one claims custody or visitation rights with our child/ren. **or**

[] In addition to the parents, the following person/s claim custody or visitation for our child/ren (list names and addresses): _____

d. [] Our child/ren live(s) only with both parents. **or**

[] If our child/ren lives(s) with someone other than a parent, the name(s) and present address(es) of the person(s) with whom our child/ren live(s) is/are:

_____.

a. I was a party or witness in the following case(s) involving our child/ren (*provide all specifics including the state, the court, the case number, the type of case and the date of any order(s)*):

_____.

b. I know of the following court case(s) that could affect our child/ren (*provide all specifics including the court, the case number, the type of case and the date of any order(s). If the order is for child support attach (staple) a copy*):

_____.

c. In addition to the parents, the following person(s) claims custody or visitation for our child/ren (*list those persons' names and addresses*): _____

_____.

d. If our child/ren live(s) with someone other than a parent, the name(s) and present address(es) of the person(s) with whom our child/ren live(s) is/are:

_____.

6. [] **Paternity.** The court should enter an order that (name of father)
_____ is the natural father of the child/ren
named in paragraph 1 of this Complaint.

7. **Legal Custody.**

[] Both parties are fit persons to act as parents. It is in the best interest of our
child/ren that we be given joint legal custody. **or**

[] It is in the best interest of our child/ren that
_____ be given sole legal custody because

_____.

8. **Physical Custody.**

[] It is in the best interest of our child/ren that we be given joint physical custody on
the terms and according to the Parenting Plan, which is attached as **Exhibit A.** **or**

[] _____ should be given sole physical custody of our
child/ren because _____

_____.

[] _____ should spend time with our child/ren
as follows: _____

_____.

9. **Child Support.** The court has jurisdiction to set child support as set forth in Title 32,
Chapter 7, Idaho Code.

[] Child support has already been set, as shown by the attached Order, **Exhibit B.**

[] Because there has been a substantial and material change in circumstances
since the date of that order, the amount of child support should be changed. The following
changes have occurred (*check all boxes that apply*):

- [] The custodial arrangement.
- [] The gross annual income of one or both parents.
- [] A parent is providing medical insurance.
- [] The parent claiming the tax dependency exemption should be changed.

[] (other reason) _____ **and/or**

[] Child support should be paid by _____ in the total amount of \$_____ per month, based on the Idaho Child Support Guidelines, according to the Affidavit Verifying Income and Child Support Worksheet(s) attached as "Exhibit B". The total amount includes: Base child support in the amount of: \$_____

[] Work-related childcare expenses in the amount of \$_____
[] Medical, dental and/or optical insurance premiums allocated in the amount of \$_____
[] Tax benefits allocated in the amount of \$_____

Child support payments should begin on the _____ day of the month after the Custody Order is signed and continue to be paid on the _____ day of each following month until the child/ren reaches the age of eighteen (18). If a child for whom support is being paid continues his/her high school education after reaching the age of eighteen (18) years, child support payments should continue until the child discontinues his/her high school education or reaches the age of nineteen (19) years, whichever is sooner. Payment should be made payable to the Department of Health and Welfare and sent to: **Idaho Child Support Receipting, P.O. Box 70008, Boise, ID 83707-0108.**

[] We have more than one minor child. If this Child Support Order has not been modified, when one child is no longer entitled to support, child support for the remaining child/ren should continue in the total amount of \$_____ per month; when two children are no longer entitled to support, child support for the remaining child/ren should continue in the total amount of \$_____ per month; when three children are no longer entitled to support, child support for the remaining child should continue in the total amount of \$_____ per month.

[] **Extended Visits:** The child/ren live/s in the home of one parent at least 75% of the time.

[] When the parent paying child support has physical custody of the child/ren for fourteen (14) or more overnights in a row, the amount of base child support should be reduced for that period of time; however, visitation of two overnights or less with the other parent should not eliminate the reduction of base child support during extended visits. The child support reduction for the period of the actual physical custody should be [] 50% **or** [] _____% of the base child support obligation. The reduction should be subtracted from the child support payment due the next month.

[] If the parent paying child support has physical custody of some but not all of the children for a period of fourteen (14) overnights in a row, before a reduction is made, the base child support obligation should first be divided by the number of children under eighteen (18) years of age. The reduction for the paying parent should only apply to the base child support thus allocated to the children in that parent's custody.

(Example: Parent has 3 of 4 children for 14 overnights. \$300/mo. base support payment divided by 4 children = \$75 per child per month divided by 30 = \$2.50 per day per child x 14 = \$35.00 x 3 for 3 children = \$105.00. Reduction = 50% of \$105 or \$52.50.)

NOTICES

According to Chapter 12, Title 32, Idaho Code, this Child Support Order is immediately enforceable through income withholding. Income withholding shall be enforced by a Withholding Order issued to the paying parent's employer without additional notice to the paying parent. A statewide lien on all real and personal property of the paying parent will arise automatically if child support is past due in an amount equal to the smaller of \$2,000 or 90 days of support, according to Idaho Code §§7-1206 and 45-1901, *et seq.*

The Support Order can also be enforced by license suspension.

10. Medical Insurance.

[] Medical Insurance already been set, as shown by the attached Order, **Exhibit B**.

or

[] _____ is/are currently providing health insurance for the minor child/ren and should continue to do so, so long as it is reasonably available through that parent's employment. If such insurance becomes unavailable to the parent currently providing insurance, the parent first reasonably able to obtain group health insurance through employment should do so. **or**

[] Neither parent is currently providing health insurance for the child/ren. The parent first reasonably able to obtain group health insurance through employment should do so.

or

[] The child/ren participate in the Children's Health Insurance Program. The parent first reasonably able to obtain group health insurance through employment should do so.

and/or

[] The total child support amount does not include any actual cost paid by either parent for health insurance premiums for the child/ren. That cost, whether being paid now or incurred in the future, should be prorated between the parents in proportion to their Guidelines

income. Father should pay _____% and Mother should pay _____. The payment should be in addition to the base child support award and promptly paid directly between the parents.

Where medical insurance is provided, each parent should be ordered to provide the other with all medical insurance information necessary to obtain health care and process insurance claims for the child/ren. Insurance proceeds should be applied first to unpaid medical bills and then to reimburse the paying parent for any prepaid medical costs. Both parents should be ordered to sign any needed document that provides continuing health care for the child/ren.

Notice

Failure to provide medical insurance coverage may result in the direct enforcement of a medical support order by either the obligee (party or parent other than the parent ordered to carry or provide a health benefit plan for the parties' minor child/ren) or the Department of Health and Welfare. A national medical support notice will be sent to your employer, requiring your employer to enroll the child in a health benefit plan as provided by Sections 32-1214A through 32-1214J, Idaho Code, and applicable rules of the department.

11. Health Care Costs Not Paid by Insurance.

[] Health care costs sharing has already been set, as shown by the attached Order, **Exhibit B.** or

[] The actual cost paid by either parent for health care expenses for the child/ren not covered or paid in full by insurance, including, but not limited to orthodontic, optical and dental, should be prorated between the parents. Father should pay _____ % and Mother should pay _____. These payments should be in addition to the base child support award and be promptly paid directly between the parents.

Any health care for the child/ren (whether denominated as psychiatric, psychological, special education, addiction treatment, or counseling in any form, and including regular medical or dental care), whether or not covered by insurance, that would result in an actual out-of-pocket expense of over \$500 to the parent who did not incur or consent to the expense, must be approved in advance, in writing, by both parents or by prior court order. (Note: The court may consider whether consent for out-of-pocket expenses in excess of \$500 was unreasonably requested or withheld and order payment of the incurred expense in some percentage other than the Guidelines income.)

12. Work-related Child Care Costs.

[] Work-related child care costs sharing has already been set, as shown by the attached Order, **Exhibit B.** or

[] The total child support amount does not include work-related child care costs. The actual net out-of-pocket costs for work-related child care should be paid _____% by Father and _____% by Mother.

[] Payment should be made directly to the child care provider by both parents according to arrangements made with the care provider. If one parent pays the child care provider any portion of the other parent's share of costs, the non-paying parent should reimburse the paying parent within 10 days after the paying parent provides a copy of the invoice and receipt for the payment.

13. Income Tax Exemption.

[] The Income Tax Exemption has already been set, as shown by the attached Order, **Exhibit B.** or

[] The state and federal dependency tax exemption(s) for the parties' minor child/ren should be assigned as follows: _____

The parent not receiving the exemption(s) should sign the required Internal Revenue Service form(s) to release the claim to the exemption(s).

14. Name Change.

[] For legal purposes the minor child/ren's last name should be _____ and the child/ren's birth certificate(s) should be amended to reflect that name.

15. Amend Birth Certificate.

The Bureau of Vital Statistics should amend the birth certificate(s) of the child/ren to reflect that _____ is the natural father of our child/ren.

VERIFICATION: I swear I have read this Complaint and state that all facts included are true.

WHEREFORE, I ask the Court to enter the orders requested above.

DATE _____, 20____.

Signature of Plaintiff

SUBSCRIBED AND SWORN to before me this _____ day of _____, _____.

Notary Public for Idaho

Residing at: _____
My Commission expires: _____

Remove this Page and

Attach (staple) Parenting Plan
and Mark as "EXHIBIT A"

Attach (staple) Child Support Order from Other Case
or Affidavit Verifying Income and Child Support Worksheet
and Mark as "EXHIBIT B"

Attach (staple) Order of Filiation from Other Case
and/or Voluntary Acknowledgment of Paternity
and Mark as "EXHIBIT C"